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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 98,714)

In re Application of:

David Baunoch, et al.

Serial No.: 09/212,367

Filed : December 15, 1998

For: METHOD AND APPARATUS FOR AUTOMATED
REPROCESSING OF TISSUE SAMPLES

Commissioner of Patents
Washington, D.C. 20231

Group Art Unit: 1623

Examiner: R. Gitomer

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TRANSMITTAL LETTER

Dear Sir:

In regard to the above-identified patent application:

1. We are transmitting herewith the attached Response to Notice of Improper Request for Continued Examination (RCE), Response to Office Action Dated July 17, 2001, and Return Receipt Postcard.

2. With respect to additional fees:

A. No additional fees are required.

B. Please charge any additional fees or credit overpayments to the Deposit Account No. 13-2490. A duplicate copy of this sheet is enclosed.

3. CERTIFICATE UNDER 37 C.F.R. §1.8 (FIRST CLASS MAIL): The undersigned hereby certifies that this Transmittal Letter and the document(s) as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231, on this 17th day of January, 2002.

DATED: January 17, 2002

BY:

Amir N. Penn
Registration No. 40,767

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In re Application of:)
David Baunoch, et al.)
Serial No.: 09/212,367) Group Art Unit: 1623
Filed : December 15, 1998) Examiner: R. Gitomer
For: **METHOD AND APPARATUS FOR**)
AUTOMATED REPROCESSING OF)
TISSUE SAMPLES)

Asst. Commissioner for Patents
Washington, DC 20231

RESPONSE TO NOTICE OF IMPROPER
REQUEST FOR CONTINUED EXAMINATION (RCE)

Dear Sir:

In response to the notice of improper request for continued examination (RCE) (a copy of which is enclosed), applicants hereby include the submission as required by 37 C.F.R. §1.114 which is in compliance with 37 C.F.R. §1.121.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff

By: Amir N. Penn

Dated: January 17, 2002

Aimir N. Penn
Reg. No. 40,767
Attorney for Applicant



Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



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DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 12/3/01 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
SEE ATTACHES 37 CFR 1.121

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

Charles Smith, Examining Group 1700

(703) 308 - 4275

FORM PTO-2051 (Rev. 3/2001)

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